

12-17-93
123.8 v.6

PORT OF SEATTLE
TERM LEASE

THIS TERM LEASE made as of December 17, 1993, by and between the PORT OF SEATTLE, a Washington municipal corporation, as Lessor, hereinafter referred to as "the Port," and ASH GROVE CEMENT COMPANY, a Delaware corporation, hereinafter referred to as "Lessee."

W I T N E S S E T H :

In consideration of their mutual promises, the parties hereto do hereby mutually agree as follows:

LEASED
PREMISES

1. The Port hereby leases to Lessee, and Lessee hereby hires and leases from the Port, the following described Premises situated in King County, State of Washington:

That portion of the South half of Section 18, Township 24 North, Range 4 East, W.M. King County, Washington being those portions of vacated South Nevada Street, vacated 8th Avenue South, vacated 9th Avenue South and Block 388, Seattle Tide Lands described as follows:

Commencing at Port of Seattle Monument No. 106B at Seattle Tide Lands coordinate North 9200.00, East 29898.00. Proceed North 23°51'23" East a distance of 249.73 feet to the point of beginning; thence North 90°00'00" West a distance of 9.00 feet; thence North 0°00'00" East a distance of 449.39 feet; thence North 90°00'00" West a distance of 100.00 feet; thence North 0°00'00" East a distance of 221.59 feet to the true point of beginning; thence North 90°00'00" West a distance of 249.92 feet; thence North 8°41'28" East a distance of 154.66 feet; thence North 74°25'42" East a distance of 225.47 feet; thence South 90°00'00" East a distance of 9.35 feet; thence South 0°00'00" West a distance of 213.14 feet to the true point of beginning.

Containing: 43,560 square feet (1.0 acre), being a portion of Port of Seattle's Terminal 106 West, as shown on Exhibit "A," attached hereto and by this reference made a part hereof, hereinafter called "the Premises."

TERM

2. This lease shall be for a term of five (5) years, beginning January 1, 1994 and ending December 31, 1998.

RENT

3. (a) Effective February 10, 1994, Lessee agrees to pay as rent for the Premises the sum of THREE THOUSAND FOUR HUNDRED EIGHTY-FOUR AND 80/100 DOLLARS (\$3,484.80) per month. The rent for each month shall be paid to the Port in advance on or before the first day of each and every month of the lease term, and shall be payable at such place as the Port may hereinafter designate. Except to the extent, if any, expressly provided below, payment of rent shall not relieve Lessee and/or cargo from their respective obligations to pay all applicable Port tariff charges.

Rent is computed as follows:

43,560 sq.ft. ground area @ \$0.08/sq. ft./mo. = \$3,484.80*

* Plus applicable state taxes.

USEPA SF



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(b) The rent shall be adjusted effective thirty (30) months after the beginning of the term of this lease by a percentage equal to the percentage increase for the previous thirty (30) month period in the Consumer Price Index for All Urban Consumers, U.S. City Average (all items), as published by the United States Department of Labor, Bureau of Labor Statistics (1982-4 = 100) (the "CPI"); provided, however, that the rent shall in no event be adjusted below the level of initial rent. If the CPI is not published for any month pertinent to such calculation, the percentage adjustment shall be calculated with reference to the most recent month thereto for which the CPI has been published. If the CPI is discontinued or revised during the lease term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same results as would be obtained if the CPI had not been discontinued or revised.

LATE CHARGES

4. Lessee hereby acknowledges that late payment by Lessee to the Port of rent, or any other sums due hereunder will cause the Port to incur costs not otherwise contemplated by this Lease. Accordingly, if any installment of rent or any other sum due from Lessee shall not be received by the Port within ten (10) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay the Port a late charge equal to 5% of such overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs the Port will incur by reason of late payment by Lessee. Acceptance of such late charge by the Port shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent the Port from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable in this Lease or otherwise, whether or not collected, for three (3) installments of rent in any 12-month period, then rent shall automatically become due and payable quarterly in advance, rather than monthly, notwithstanding paragraph 3.1 or any other provision of this Lease to the contrary. In addition to the late charges provided for in this paragraph, interest shall accrue on rent, or any other sums due hereunder, at the rate of 18% per annum or the maximum rate provided by law, whichever is less, from the date due until paid.

BOND OR
OTHER SURETY

5. Lessee shall, upon execution of this lease and to secure its full performance of this lease, including the payment of all rentals and other amounts now or hereafter payable to the Port hereunder, obtain and deliver to the Port a cash deposit, a good and sufficient corporate surety company bond or other security (sometimes referred to as the "Security") in an amount acceptable to the Port. The form, provisions and nature of the Security, and the identity of the surety or other obligor thereunder, shall remain in place during the full term of this lease and shall be subject to the continued approval of the Port.

USE OF PREMISES

6. (a) Lessee shall use the Premises for storage of concrete aggregate materials and mechanical spare parts and shall not use them for any other purpose without the written consent of the Port. Lessee may store coal, clay, gypsum, shale and iron scale on the Premises, provided Lessee has obtained the necessary permits and approvals for such storage. Lessee shall be solely responsible for obtaining such permits and approvals. Lessee shall use the entire Premises for the conduct of said business in a first-class manner continuously during the entire term of this lease, with the exception of temporary closures for such periods as may reasonably be necessary for repairs or

redecorating or for reasons beyond Lessee's reasonable control. Lessee agrees that it will not disturb the Port or any other tenant of the Port by making or permitting any disturbance or any unusual noise, vibration or other condition on or in the Premises.

(b) Lessee shall not use the Premises for storage of petroleum products, concrete additives, or dry bulk cement.

UTILITIES

7. Lessee shall be liable for, and shall pay throughout the term of this lease, all charges for all utility services furnished to the Premises, including, but not limited to, light, electricity, ADT or equivalent, gas, water, sewerage, and garbage disposal. In the event that the Premises are part of a building or part of any larger premises to which any utility services are furnished on a consolidated or joint basis, Lessee agrees to pay to the Port Lessee's pro rata share of the cost of any such utility services. Lessee's pro rata share of any such services may be computed by the Port on any reasonable basis, and separate metering or other exact segregation of cost shall not be required.

ACCEPTANCE OF PREMISES

8. Lessee has examined the Premises, accepts them in their present condition, and agrees to make any changes in the Premises necessary to conform to federal, state and local law applicable to Lessee's use of the Premises.

MAINTENANCE AND REPAIR

9. At the expiration or sooner termination of this lease, Lessee shall return the Premises to the Port in the same condition in which received (or, if altered by Lessee with the Port's consent, then the Premises shall be returned in such altered condition), reasonable wear and tear and damage by fire or other unavoidable casualty excepted. Lessee shall, at its own expense, at all times keep the Premises and the adjoining roadways and sidewalks, neat, clean and in a safe and sanitary condition, free from infestation of pests and conditions which might result in harborage for, or infestation of, pests. (The word "pests," as used herein, shall include, without limitation, rodents, insects, and birds in numbers to the extent that a nuisance is created.) Lessee shall maintain and keep the Premises in a good state of repair, and shall commit no waste of any kind.

ALTERATIONS AND IMPROVEMENTS

10. (a) Lessee shall make no alterations or improvements which require foundational support to or upon the Premises or install any fixtures (other than trade fixtures which can be removed without injury to the Premises) without first obtaining written approval from the Executive Director of the Port and subject to any and all conditions in such approval provided such alterations are not inconsistent with the uses described in paragraph 6. In the event any alterations or improvements shall be made or fixtures (other than trade fixtures which can be removed without injury to the Premises) installed by Lessee, except for the items listed on Exhibit B, they shall at once become a part of the realty and become the property of the Port. Movable furniture and trade fixtures which are removable without injury to the Premises shall be and remain the property of Lessee. Lessee shall retain ownership of any conveyor belt system on the Premises and agrees to remove it from the Premises upon termination of this Lease.

(b) Lessee shall, at its expense, install drainage control improvements to the Premises to ensure that sediment from the stockpile site: (1) does not reach the Duwamish River, (2) does not enter any existing drainage system on adjacent Port property, and (3) does not enter public right-of-way areas or public drainage systems; provided however, Lessee may proceed to use the existing drainage system on Port property except as provided in "(2)" above. It is acknowledged that such drainage control improvements may direct flow from the Premises into the drainage system on Lessee's adjacent plant property. Upon the termination of this Lease, Lessee shall be entitled at its expense to reconfigure any such improvements so that runoff from the Premises no longer is directed into Lessee's drainage system.

(c) Lessor shall, at its expense, relocate the existing fence along the north boundary of the Premises to the south boundary of the Premises and provide any additional fencing and gates that may be required to secure the Premises. The relocation of the fence shall be subject to the approval of the Port. At the expiration or sooner termination of this Lease, Lessee shall, at the option of the Port, relocate the fence to its original position. At the expiration or sooner termination of this Lease, Lessee shall repair any damage to the fencing and generally restore the Premises to the same condition in which received.

INSPECTION,
"FOR RENT"
SIGNS

11. The Port reserves the right to inspect the Premises at any and all reasonable times throughout the term of this lease: Provided, that the Port shall not interfere unduly with Lessee's operations. The right of inspection reserved to the Port hereunder shall impose no obligation on the Port to make inspections to ascertain the condition of the Premises, and shall impose no liability upon the Port for failure to make such inspections. The Port shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises for thirty (30) days prior to the expiration or sooner termination of this lease.

OUTSIDE AREAS
AND ROOF

12. The use of the outside area of the Premises is reserved to the Port, which shall have the right to utilize the same for any purpose, including the maintenance of signs.

POSSESSION

13. If the Port shall be unable for any reason to deliver possession of the Premises, or any portion thereof, at the time of the commencement of the term of this lease, the Port shall not be liable for any damage caused thereby to Lessee, nor shall this lease thereby become void or voidable, nor shall the term specified herein be in any way extended, but in such event Lessee shall not be liable for any rent until such time as the Port can deliver possession. If Lessee shall, in the interim, take possession of any portion of the Premises, Lessee shall pay as rent the full rent specified herein reduced pro rata for the portion of the Premises not available for possession by Lessee. If the Port shall be unable to deliver possession of the Premises at the commencement of the term of this lease, Lessee shall have the option to terminate this lease by at least thirty (30) days' written notice, unless the Port shall deliver possession of the Premises prior to the effective date of termination specified in such notice. If Lessee shall, with the Port's consent, take possession of all or any part of the Premises prior to the commencement of the term of this lease, all of the terms and conditions of this lease shall immediately become applicable, with the exception that Lessee shall not be obligated to pay any rent for the period prior to the commencement of the term of this lease unless otherwise mutually agreed.

DAMAGE OR
DESTRUCTION

14. (a) Should the Premises or the buildings or structures of which the Premises are a part be damaged by fire or other casualty and if the damage is repairable within four (4) weeks from the date of the occurrence (with the repair work and the preparations therefor to be done during regular working hours on regular work days), the Premises shall be repaired with due diligence by the Port, and in the meantime the monthly rent shall be abated in the same proportion that the untenable portion of the Premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs.

(b) Should the Premises or any buildings or structures of which the Premises are a part be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within four (4) weeks of the occurrence, the Port shall have the option to terminate this lease on thirty (30) days' notice, effective as of any date not more than sixty (60) days after the occurrence. In the event that this paragraph shall become applicable, the Port shall advise Lessee within thirty (30) days after the happening of any such damage whether the Port has elected to continue the lease in effect or to terminate it. If the Port shall elect to continue this lease in effect, it shall commence and prosecute with due diligence any work necessary to restore or repair the Premises. If the Port shall fail to notify Lessee of its election within said thirty (30) day period, the Port shall be deemed to have elected to terminate this lease, and the lease shall automatically terminate sixty (60) days after the occurrence of the damage. For the period from the occurrence of any damage to the Premises to the date of completion of the repairs to the Premises (or to the date of termination of the lease if the Port shall elect not to restore the Premises), the monthly rent shall be abated in the same proportion as the untenable portion of the Premises bears to the whole thereof.

INDEMNIFICATION
LIABILITY
INSURANCE

15. (a) The Port, its employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property regardless of how such injury or damage be caused, sustained or alleged to have been sustained by Lessee or by others, including but not limited to all persons directly or indirectly employed by the Lessee, or any agents, contractors, or subcontractors of Lessee, as a result of any condition (including existing or future defects in the Premises) or occurrence (including failure or interruption of utility service) whatsoever related in any way to the Premises and the areas adjacent thereto, or related in any way to Lessee's use or occupancy of the Premises and of areas adjacent thereto. Lessee agrees to defend and to hold and save the Port harmless from all liability or expenses (including attorneys' fees, costs, and all expenses of litigation) in connection with any such items of actual or alleged injury or damage, except when such injury or damage is caused by the sole negligence of the Port.

(b) In addition, Lessee shall, at its own expense, maintain proper liability insurance with a reputable insurance company or companies satisfactory to the Port in the minimum amount of \$2,000,000 combined single limit for bodily injuries and death, and for property damage (or equivalent satisfactory to the Port) and hereafter in such increased amounts as the Port may from time to time specify, to indemnify both the Port and Lessee against any such liability or expense.

(c) The Port shall be named as additional insured, and shall be furnished with appropriate evidence to establish (1) that Lessee's insurance obligations as herein provided have been met, and (2) that the insurance policy or policies as herein required are not subject to cancellation without at least forty-five (45) days' advance written notice to the Port. Lessee shall furnish to the Port from time to time evidence of renewal of insurance as required.

WAIVER OF
SUBROGATION

16. The Port and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under the respective fire insurance contracts, including any extended coverage endorsements thereto: Provided, that this paragraph 16 shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of Port or Lessee.

INCREASE IN
COST OF
INSURANCE

17. Lessee shall not use the Premises in such a manner as to increase the existing rates of insurance applicable to the buildings or structures of which the Premises are a part. If it nevertheless does so, then, at the option of the Port, the full amount of any resulting increase in premiums paid by the Port with respect to the buildings or structures of which the Premises are a part, and to the extent allocable to the term of this lease, may be added to the amount of rent hereinabove specified and shall be paid by Lessee to the Port upon the monthly rental day next thereafter occurring.

TAXES

18. Lessee shall be liable for, and shall pay throughout the term of this lease, all license fees and all excise taxes payable for, or on account of, the activities conducted on the Premises and all taxes on the property of Lessee on the Premises and any taxes on the Premises and/or on the leasehold interest created by this lease and/or any taxes levied in lieu of a tax on said leasehold interest and/or any taxes levied on, or measured by, the rentals payable hereunder, whether imposed on Lessee or on the Port. With respect to any such taxes payable by the Port which are on or measured by the rent payments hereunder, Lessee shall pay to the Port with each rent payment an amount equal to the tax on, or measured by, that particular payment. All other tax amounts for which the Port is or will be entitled to reimbursement from Lessee shall be payable by Lessee to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; provided, that Lessee shall be entitled to a minimum of ten (10) days' written notice of the amounts payable by it.

COMPLIANCE WITH
PORT REGULATIONS
AND WITH ALL
LAWS

19. Lessee agrees to comply with all applicable rules and regulations of the Port of which Lessee has received (or will receive) written notice pertaining to the building or other realty of which the Premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public. Lessee further agrees to comply with all applicable federal, state, and municipal laws, ordinances, and regulations, including without limitation those relating to environmental matters. Any fees for any inspection of the Premises during or for the lease term by a federal, state or municipal officer and the fees for any so-called "Certificate of Occupancy" shall be paid by Lessee.

ASSIGNMENT OR
SUBLEASE

20. Lessee shall not assign or transfer this lease or any interest therein nor sublet the whole or any part of the Premises, nor shall this lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, or otherwise. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this lease more than one-half (1/2) of the outstanding shares of any class of stock of Lessee corporation shall belong to any stockholders other than those who own more than one-half (1/2) of the outstanding shares of that class of stock at the time of the execution of this Lease or to members of their immediate families, such change in the ownership of the stock of Lessee shall be deemed an assignment of this lease within the meaning of this paragraph.

Notwithstanding anything contained herein to the contrary, the following shall not be considered an assignment, sublease or other transfer for the purposes of this section: (a) any transfer of stock or assets from Lessee to an affiliate or subsidiary entity or as a result of any merger, consolidation or the reorganization of Lessee or Lessee's parent corporation; or (b) any purchase or sale of currently outstanding capital stock of Lessee.

DEFAULTS

21. Time is of the essence of this agreement. Lessee shall pay interest monthly at the annual rate of eighteen percent (18%), or the maximum rate permitted from time to time by applicable law, whichever is less, on all sums owing to the Port under this lease, commencing thirty (30) days after the date each sum is due and payable. In the event of the failure of Lessee to pay the rents, interest, and any and all other charges provided for in this lease at the time and in the manner herein specified, or to keep any of the covenants or agreements herein set forth to be kept and performed, the Port may elect to terminate this lease and reenter and take possession of the Premises with process of law: Provided, however, that Lessee shall be given fifteen (15) days' notice in writing stating the nature of the default in order to permit such default to be remedied by Lessee within said fifteen (15) day period. Payment by Lessee to the Port of interest on rents and/or on any other charges due and owing under this lease shall not cure or excuse Lessee's default in connection with such rents and/or other charges. Interest, default and all other remedies of the Port hereunder are cumulative and not alternative. If upon such reentry there remains any personal property of Lessee or of any other person upon the Premises, the Port may, but without the obligation so to do, remove said personal property and hold it for the owners thereof or may place the same in a public garage or warehouse, all at the expense and risk of the owners thereof, and Lessee shall reimburse the Port for any expense incurred by the Port in connection with such removal and storage. The Port shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, and third to the payment of any other amounts which may then be due from Lessee to the Port, and the balance, if any, shall be paid to Lessee. Notwithstanding any such reentry, the liability of Lessee for the full rents and interest provided for herein shall not be extinguished for the balance of the term of this lease, and Lessee shall make good to the Port any deficiency arising from a reletting of the Premises at a lesser rent than that hereinbefore agreed upon. Lessee shall pay such deficiency each month as the amount thereof is ascertained by the Port.

If the Port fails to perform any of its covenants or agreements contained in this Lease, and such failure to perform is not caused by reasons beyond the Port's control, Lessee's rent shall be abated by a percentage equal to the percentage the Premises are not capable of being used by Lessee for the purposes allowed hereunder.

TERMINATION

22. In the event that the Port, at its sole discretion, shall require the use of the Premises for a major capital improvement for public or private use in connection with the operation of the business of the Port, then this lease may be terminated by the Port by written notice delivered or mailed by the Port to Lessee not less than one hundred eighty (180) days before the termination date specified in the notice.

TERMINATION FOR
GOVERNMENT USE

23. In the event that any federal, state or local government or agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the Premises or any part thereof, the Port may, at its option, terminate this lease as of the date of such taking, and, if Lessee is not in default under any of the provisions of this lease on said date, any rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.

TERMINATION
BECAUSE OF
COURT DECREE

24. In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its obligations under this lease, then either party hereto may terminate this lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Lessee is not in default under any of the provisions of this lease on the effective date of such termination, any rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.

SIGNS

25. No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted on or within the Premises, including the windows and doors thereof, without the approval of the Executive Director of the Port first had and obtained. At the termination or sooner expiration of this lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Lessee shall be removed by Lessee at its own expense, and Lessee shall repair any damage or injury to the Premises and correct any unsightly condition caused by the maintenance and removal of said signs, etc.

INSOLVENCY

26. If Lessee shall file a petition in bankruptcy, or if Lessee shall be adjudged bankrupt or insolvent by any court, or if a receiver of the property of Lessee shall be appointed in any proceeding brought by or against Lessee, or if Lessee shall make an assignment for the benefit of creditors, or if any proceedings shall be commenced to foreclose any mortgage or any other lien on Lessee's interest in the Premises or on any personal property kept or maintained on the Premises by Lessee, the Port may, at its option, terminate this lease.

NONWAIVER

27. The acceptance of rent by the Port for any period or periods after a default by Lessee hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Lessee in writing. No waiver by the Port of any default hereunder by Lessee shall be construed to be or act as a waiver of any subsequent default by Lessee. After any default shall have been timely cured by lessee, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of paragraph 21 hereof.

PROMOTION OF
PORT COMMERCE

28. Lessee agrees that throughout the term of this lease it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Lessee further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Lessee.

SURRENDER OF
PREMISES -
ATTORNEYS' FEES

29. At the expiration or sooner termination of this lease, Lessee shall promptly surrender possession of the Premises to the Port, and shall deliver to the Port all keys that it may have to any and all parts of the Premises. In the event that either party shall be required to bring any action to enforce any of the provisions of this lease, or shall be required to defend any action brought by the other party with respect to this lease, and in the further event that one party shall entirely prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's actual costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorneys' fees in the trial court and in any appellate courts.

HOLDING OVER

30. If Lessee shall, with the consent of the Port, hold over after the expiration or sooner termination of the term of this lease, the resulting tenancy shall, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay to the Port the same rate of rent as set forth herein, unless a different rate shall be agreed upon, and shall be bound by all of the additional provisions of this lease insofar as they may be pertinent.

ADVANCES BY
PORT FOR LESSEE

31. If Lessee shall fail to do anything required to be done by it under the terms of this lease, except to pay rent, the Port may, at its sole option, do such act or thing on behalf of Lessee, and upon notification to Lessee of the cost thereof to the Port, Lessee shall promptly pay the Port the amount of that cost.

LIENS AND
ENCUMBRANCES

32. Lessee shall keep the Premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the said Premises by Lessee. At the Port's request, Lessee shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the Premises if not paid.

NOTICES

33. All notices and payments hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

To Lessor:

Port of Seattle
P. O. Box 1209
Seattle, Washington 98111

To Lessee:

Ash Grove Cement Company
Attn: Kenneth J. Rone
Plant Manager
3801 E. Marginal Way South
Seattle, WA 98134

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices and payments sent by certified or registered mail and subsequently received by the Port shall be deemed to have been given when and if properly mailed, and the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

JOINT AND
SEVERAL LIABILITY

34. Each and every party who signs this lease, other than in a representative capacity, as Lessee, shall be jointly and severally liable hereunder.

"LESSEE"
INCLUDES
LESSEES, ETC.

35. It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual lessee or lessees under this agreement.

CAPTIONS

36. The captions in this lease are for convenience only and do not in any way limit or amplify the provisions of this lease.

INVALIDITY OF
PARTICULAR
PROVISIONS

37. If any term or provision of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

NONDISCRIMINATION -
SERVICES

38. (a) Lessee agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, sex, age, creed, color or national origin in furnishing, or by refusing to furnish, to such person, or persons, the use of the facility herein provided, including any and all services, privileges, accommodations, and activities provided thereby.

(b) It is agreed that Lessee's noncompliance with the provisions of this clause shall constitute a material breach of this lease. In the event of such noncompliance, the Port may take appropriate action to enforce compliance, may terminate this lease, or may pursue such other remedies as may be provided by law.

NONDISCRIMINATION -
EMPLOYMENT

39. Lessee covenants and agrees that in all matters pertaining to the performance of this lease, Lessee shall at all times conduct its business in a manner which assures fair, equal and nondiscriminatory treatment of all persons without respect to race, sex, age, color, creed or national origin and, in particular:

(a) Lessee will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of racial or other minorities, and

(b) Lessee will comply strictly with all requirements of applicable federal, state and local laws or regulations issued pursuant thereto relating to the establishment of nondiscriminatory requirements in hiring and employment practices and assuring the service of all patrons or customers without discrimination as to any person's race, sex, age, creed, color or national origin.

LABOR UNREST

40. Lessee agrees to join with the Port and use its best efforts in avoiding labor unrest, or in the event of a wildcat strike or other labor difficulty, to use its good offices in negotiating and bringing to a swift and satisfactory conclusion any kind of labor dispute that may affect the interests of the Port.

EASEMENTS

41. (a) The Parties recognize that the Port facilities are continuously being modified to improve the utilities, services and Premises used and provided by the Port. The Port, or its agents, shall have the right to enter the Premises of Lessee, and to cross over, construct, move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, and the electrical service, and all other services and facilities required by the Port for its own use. The Port is hereby granted a continuous easement or easements that the Port believes is necessary within the Premises of Lessee, without any additional cost to the Port for the purposes expressed hereinabove. Provided, however, that the Port by virtue of such use, does not substantially deprive Lessee from its beneficial use or occupancy of its leased area for an unreasonable period of time, not to exceed thirty (30) working days, without consent of Lessee.

(b) In the event that the Port permanently deprives Lessee from such beneficial use or occupancy, then an equitable adjustment in rent, or in the cost required to modify its Premises to allow the Lessee to operate its business, will be negotiated and paid by the Port to Lessee. In the event that such entry by the Port is temporary in nature, then the Port shall reimburse Lessee for the cost required to modify its Premises for the temporary period that Lessee is inconvenienced by such Port entry. The Port will not be responsible to Lessee for any reduced efficiency or loss of business occasioned by such entry.

ENVIRONMENTAL
STANDARDS

42. (a) "Law or Regulation" as used herein shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction), now or hereafter in effect. "Hazardous Substances" as used herein shall mean any substance or material defined or designated as a hazardous waste, toxic substance, or other pollutant or contaminant, by any Law or Regulation.

(b) Lessee shall not allow the presence in or about the Premises in any manner that could be a detriment to the Premises or in violation of any Law or Regulation of any Hazardous Substance brought onto the Premises during the term of this Lease. Lessee shall not allow any Hazardous Substances brought onto the Premises during the term of this Lease to migrate off the Premises, or the release of any such Hazardous Substances into adjacent surface waters, soils, underground waters or air. Lessee shall provide the Port with Lessee's USEPA Waste Generator Number, and with copies of all Material Safety Data Sheets (MSDS), Generator Annual Dangerous Waste Reports, environmentally related regulatory permits or approvals (including revisions or renewals) and any correspondence Lessee receives from, or provides to, any governmental unit or agency in connection with Lessee's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

(c) If Lessee's activities result in the violation of any Law or Regulation concerning the presence, handling, storage or use of Hazardous Substances, Lessee shall promptly take such action as is necessary to mitigate and correct the violation. If Lessee does not act in a prudent and prompt manner, the Port reserves the right, but not the obligation, to come onto the Premises, to act in place of the Lessee (Lessee hereby appoints the Port as its agent for such purposes) and to take such action as the Port deems necessary to ensure compliance or to mitigate the violation. If the Port has a reasonable belief that Lessee is in violation of any Law or Regulation applicable to the Premises or Lessee's use thereof, or that Lessee's actions or inactions present a threat of violation or a threat of damage to the Premises, the Port reserves the right to enter onto the Premises and take such corrective or mitigating action as the Port deems necessary. All costs and expenses incurred by the Port in connection with any such actions shall become immediately due and payable by Lessee upon presentation of an invoice therefor.

(d) The Port has previously provided Lessee copies of reports of any audits, evaluations, studies or investigations of the Premises in the Port's possession. The Port shall have access to the Premises to conduct an annual environmental inspection. In addition, Lessee shall permit the Port access to the Premises at any time upon reasonable notice for the purpose of conducting environmental testing at the Port's expense. Lessee shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Port's written consent. Lessee shall promptly inform the Port of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to Lessee, and Lessee shall provide copies to the Port.

(e) Prior to vacation of the Premises, in addition to all other requirements under this Lease, Lessee shall remove any Hazardous Substances placed on the Premises during the term of this Lease or Lessee's possession of the Premises, and shall demonstrate such removal to the Port's satisfaction. This removal and demonstration shall be a condition precedent to the Port's payment of any Lease Security to Lessee upon termination or expiration of this Lease.

(f) No remedy provided herein shall be deemed exclusive. In addition to any remedy provided above, the Port shall be entitled to full reimbursement from Lessee whenever the Port incurs any costs resulting from Lessee's use or management of Hazardous Substances on the Premises, including but not limited to, costs of clean-up or other remedial activities, fines or penalties assessed directly against the Port, injuries to third persons or other properties, and loss of revenues resulting from an inability to re-lease or market the property due to its environmental condition (even if such loss of revenue occurs after the expiration or earlier termination of this Lease).

(g) In addition to all other indemnities provided in this Lease, Lessee agrees to defend, indemnify and hold the Port free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence or discovery of any Hazardous Substance on the Premises as a result of activities on the Premises during the term of this Lease, or the migration of any such Hazardous Substance from the Premises to other properties or into the surrounding environment, whether (i) made, commenced or incurred during the term of this Lease, or (ii) made, commenced or incurred after the expiration or termination of this Lease if arising out of events occurring during the term of this Lease. Nothing contained in this Lease shall be construed to require Lessee to undertake any remedial or clean-up actions or bear any costs of such actions arising out of or related to the presence of any Hazardous Substance on the Premises prior to Lessee's possession thereof. The Port agrees to defend, indemnify and hold Lessee free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence of any Hazardous Substance on the Premises prior to Lessee's possession thereof or the discovery of any such Hazardous Substance, or the migration of any such Hazardous Substance from the Premises to other properties or into the surrounding environment, whether (i) made, commenced or incurred during the term of this Lease, or (ii) made commenced or incurred after the expiration or termination of this Lease if arising out of events prior to the term of this Lease.

(h) Lessee has advised the Port of its intent to install mechanical equipment on the Premises for placing materials at the stockpile site (e.g., a conveyor system for trans-shipment of the materials from the adjacent property to the north). The parties recognize that the Puget Sound Air Pollution Control Agency ("PSAPCA") is implementing stringent measures for control of fugitive dust in the Duwamish industrial area. The conveyor system shall include water spray or other equipment for controlling dust from the storage piles. Lessee shall water the Premises or take other appropriate action to control dust from truck traffic at the site.

ENTIRE
AGREEMENT -
AMENDMENTS

43. Prior to signing this lease the parties added attached Exhibit "A." This printed lease together with any attached exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

IN WITNESS WHEREOF the parties hereto have signed this lease as of the day and year first above written.

SIGNATURE FOR
LESSEE IF
INCORPORATED

ATTEST:

ASH GROVE CEMENT COMPANY

By *W. H. S. S. S.*
Secretary

By *[Signature]*
Vice President
LESSEE

(CORPORATE SEAL)

ATTEST.

PORT OF SEATTLE

By *[Signature]*
Secretary

By *[Signature]*
President
LESSOR
Andrea Riniker
Deputy Executive Director

(CORPORATE SEAL)

Notary to Terminal 105 Lease and Agreement
with Ash Grove Cement Company

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 17th day of December, 1993,
before me, the undersigned notary public in and for the State of Washington,
duly commissioned and sworn, personally appeared Andreas B. Riniker,
to me known to be the Deputy Executive Director of the PORT OF
SEATTLE, a municipal corporation, the corporation that executed the foregoing
instrument, and acknowledged said instrument to be the free and voluntary act
and deed of said corporation, for the uses and purposes therein mentioned, and
on oath stated that he was duly authorized to execute the same.

WITNESS my hand and official seal hereto the day and year in this
Certificate first above written.

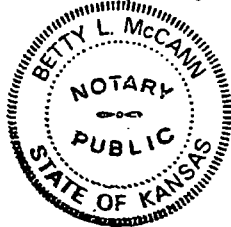
Gloria A. Mattila
Notary Public in and for the State of
Washington, residing at Wichita Island
My appointment expires May 15, 1997
GLORIA A. MATTILA

(ACKNOWLEDGMENT FOR CORPORATE LESSEE)

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 6th day of October, 1993, before me
personally appeared Stephen E. Sheridan and
Kenton W. Sunderland, to me known to be the Vice
President and the Secretary, respectively, of the corporation that
executed the within and foregoing instrument, and acknowledged said instrument
to be the free and voluntary act and deed of said corporation for the uses and
purposes therein mentioned, and on oath stated that they were authorized to
execute said instrument and that the seal affixed is the corporate seal of said
corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official
seal the day and year first above written.



Betty L. McCann
Notary Public in and for the State of Kansas
~~XXXXXXXXXX~~, residing at Overland Park
My appointment expires April 10, 1994

